



August 11, 2017

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Updated STELAR Feasibility Certification from DISH Network L.L.C. dated July 31, 2017 and filed in MB Docket No. 15-71**

Dear Ms. Dortch:

Victory Television Network, Inc. ("VTN") is filing this letter in response to the above-referenced letter (the "Updated Feasibility Certification") sent to VTN by DISH Network L.L.C. ("DISH") and filed with the Commission via ECFS. The purpose of this letter is two-fold.

First, we note that the results of DISH's updated feasibility analysis discussed in the Updated Feasibility Certification are the same as the original feasibility analysis dated June 10, 2016. The counties that DISH previously indicated were fully, partially, or not covered by the relevant spot beam are the same as those that DISH indicates are fully, partially, or not covered by the relevant spot beam in the Updated Feasibility Certification. Specifically, both of DISH's feasibility analyses indicate that: (i) Cross, Poinsett, Mississippi, Dunklin, and Pemiscot counties are fully covered by the Eastern Arc Spot Beam; (ii) Crittenden County is partially covered by the Eastern Arc Spot Beam; (iii) Dunklin and Pemiscot counties are fully covered by the Western Arc Spot Beam; (iv) Poinsett and Mississippi counties are partially covered by the Western Arc Spot Beam; (v) St. Francis County is not covered by either spot beam.<sup>1</sup>

Second, DISH asks the Commission in the Updated Feasibility Certification to clarify its obligations pursuant to the Commission's Order in Gray Television Licensee, LLC's satellite market modification request for WSAW-TV. *See In re Gray Television Licensee, LLC, Modification of the Satellite Television Market for WSAW-TV, Wausau, Wisconsin,*

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<sup>1</sup> Updated Feasibility Certification at 3-6; Letter from Alison A. Minea, Director & Senior Counsel, Regulatory Affairs, DISH Network L.L.C. to Jim Grant, General Manager/Associate Minister, Victory Television Network, Inc. re: STELAR Feasibility Certification, Market Modification Pre-Filing Coordination Letter for KVTJ-DT, MB Docket No. 15-71 (June 10, 2016) at 2-4; *see also* In re Victory Television Network, Inc., For Modification of Satellite Television Market for KVTJ-DT, Jonesboro, Arkansas, Facility ID No. 2784, *Petition for Special Relief*, MB Docket No. 17-157 (May 30, 2017) at 12-13.

KVTN-DT  
Little Rock

KVTH-DT  
Hot Springs

KVTJ-DT  
Jonesboro/Memphis

*Memorandum Opinion and Order*, DA 17-74, MB Docket No. 16-293 (rel. Jan. 17, 2017) (the “Gray Order”). Specifically, for counties VTN seeks to add to KVTJ’s market that are fully or partially covered by one satellite (e.g., the Eastern Arc) but not the other (e.g., the Western Arc), DISH asks the Commission to “clarify that the Gray TV approach ... applies to any customers that receive service from the Western Arc and thus will be unable to receive KVTJ-DT unless they choose to accommodate a service visit and potentially pay to upgrade their satellite antenna and/or receivers to switch to the Eastern Arc.” In other words, DISH asks the Commission to affirm that subscribers must pay for any equipment upgrade required to receive KVTJ.

In the Gray Order, however, the Commission determined that it is not technically or economically infeasible for DISH to provide WSAW to subscribers living in households covered by the relevant spot beam, but not receiving service from that spot beam because their equipment is looking at a different satellite in a different orbital location.<sup>2</sup> The Commission found that “the costs associated with providing those customers who do not currently have access to the spot beam with such access are low enough that serving them is not technically or economically infeasible.”<sup>3</sup> The Commission acknowledged that providing WSAW to subscribers whose equipment is looking at a different satellite may involve “a service change, particularly one involving a service visit and potential new equipment” but nonetheless directed DISH to provide WSAW to those subscribers at a “measured, non-dilatory pace.”<sup>4</sup>

VTN does not object to the standard articulated in the Gray Order, but submits that there does not appear to be any basis in the Gray Order upon which to base a requirement that subscribers pay for equipment upgrades required to receive KVTJ. Furthermore, DISH does not provide any cost information in either of its feasibility analyses for VTN; there is no basis upon which the Commission could conclude that the service visits or new equipment required for some DISH subscribers to receive KVTJ render VTN’s requested market modification economically infeasible.

Sincerely,



Jim Grant  
General Manager  
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Little Rock, AR 72221-6207

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<sup>2</sup> Gray Order at ¶¶ 17-20.

<sup>3</sup> *Id.* at ¶ 20

<sup>4</sup> *Id.*